

Section 13 of the Motor Fuel Tax Law, 35 ILCS 505/13 (1998 State Bar Edition), provides, in part, that no claim based upon the use of undyed diesel fuel shall be allowed except for undyed diesel fuel used by a commercial vehicle, as that term is defined in Section 1-111.8 of the Illinois Vehicle Code, for any purpose other than operating the commercial vehicle upon the public highways and unlicensed commercial vehicles operating on private property. See 86 Ill. Adm. Code 500.235. (This is a GIL).

August 28, 2000

Dear Xxxxx:

This letter is in response to your letter to Roland Marr dated August 2, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's Web site at www.revenue.state.il.us/legalinformation/regs/part1200.

In your letter, you have stated and made inquiry as follows:

In talking to COMPANY, he said he had talked to you regarding a customer of ours who has large portable cranes. These cranes are anywhere from 60 to 210 tons, permanently mounted (with PM plates), rubber tired, travel about 40 mph, and running low sulfur fuel. These cranes have but one tank, so he uses the fuel to move from job site to job site, which may be 5 miles or 75 miles depending where the crane is needed, and also uses the fuel for the actual operation of the crane.

I am asking for either a private letter of ruling or a general letter of ruling so our customer may file for a refund of taxes at the end of the year for the fuel he uses in the operation of the cranes.

We as suppliers are charging him the full amount of taxes on all of his fuel. The cranes are probably used off road 95% of the time.

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Section 500.235 includes a table that contains the uses of undyed diesel fuel subject to refund and the maximum amounts of undyed diesel fuel that may be claimed for refund by commercial vehicles operating in a dual capacity. A claimant who has a commercial vehicle that is operated for both highway purposes and any purposes other than operating such vehicles upon the public highways that is not included in the table must submit a specific study that has been conducted by such claimant and approved by the Department prior to submission of the claim.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk

Enc.

cc: Roland Marr